

Message Text

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TO SECSTATE WASHDC PRIORITY 766

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E.O. 11652: N/A

TAGS: EIND, PFOR, KS

SUBJECT: RIGHT OF PRIORITY ON PATENT APPLICATIONS IN KOREA

REF: (A) STATE 069892, (B) SEOUL 2327

1. EMBOFFS RECEIVED PROPOSED ROKG VERSIONS OF NOTES FROM MOFA TREATIES DIVISION I OFFICIALS ON APRIL 27.

2. TEXT OF PROPOSED ROKG VERSION OF NOTE TO US AMBASSADOR FROM THE MINISTER OF FOREIGN AFFAIRS OF THE REPUBLIC OF KOREA FOLLOWS: "EXCELLENCY, I HAVE THE HONOUR TO ACKNOWLEDGE THE RECEIPT OF YOUR EXCELLENCY'S NOTE OF PARENTHESIS DATE CLOSE PARENTHESIS WHICH READS AS FOLLOWS:

'I HAVE THE HONOUR TO REFER TO THE RECENT DISCUSSIONS HELD BETWEEN THE REPRESENTATIVES OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF KOREA WITH RESPECT TO THE CONCLUSION OF AN AGREEMENT FOR THE MUTUAL GRANTING AND PROTECTION OF THE RIGHT OF PRIORITY ON PATENTS OF INVENTION AND INDUSTRIAL DESIGNS, RECOGNIZED BY THE NATIONAL LAW OF EITHER COUNTRY AND EXTENDED TO THE NATIONALS OF THE OTHER COUNTRY, AND TO PROPOSE THE FOLLOWING ARRANGEMENTS:

1. PHYSICAL AND JURIDICAL PERSONS OF EITHER COUNTRY WHO

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HAVE DULY FILED IN ONE COUNTRY FOR A PATENT OF INVENTION, OR FOR PROTECTION OF AN INDUSTRIAL DESIGN, SHALL ENJOY, FOR THE PURPOSE OF FILING IN THE OTHER COUNTRY, A RIGHT OF PRIORITY, BASED ON SUCH EARLIER FILING, DURING THE PERIOD PROVIDED FOR BY THE RELEVANT LAWS AND REGULATIONS OF SUCH OTHER COUNTRY.

2. IT SHALL BE PERMISSIBLE TO FILE A PATENT APPLICATION

IN THE OTHER COUNTRY BY VIRTUE OF A RIGHT OF PRIORITY BASED
ON THE FILING OF A UTILITY MODEL, AND VICE VERSA.

I HAVE FURTHER THE HONOUR TO PROPOSE THAT THIS NOTE IN ENGLISH
AND KOREAN AND YOUR EXCELLENCY'S NOTE IN REPLY IN THE SAME
LANGUAGES CONFIRMING ON BEHALF OF THE GOVERNMENT OF THE
REPUBLIC OF KOREA THE FOREGOING ARRANGEMENTS SHALL BE REGARDED
AS CONSTITUTING AN AGREEMENT BETWEEN THE TWO GOVERNMENTS,
WHICH WILL ENTER INTO FORCE ON THE DATE OF YOUR EXCELLENCY'S
REPLY AND HAVE EFFECT AS FROM JANUARY 1, 1974, THE DATE
UPON WHICH THE NEW KOREAN PATENT LAW CAME INTO EFFECT.'
I HAVE FURTHER THE HONOUR TO CONFIRM ON BEHALF OF THE GOVERNMENT
OF THE REPUBLIC OF KOREA THE FOREGOING ARRANGEMENTS AND TO
AGREE THAT YOUR EXCELLENCY'S NOTE AND THIS NOTE SHALL BE REGARDED
AS CONSTITUTING AN AGREEMENT BETWEEN THE TWO GOVERNMENTS,
TO ENTER INTO FORCE ON THE DATE OF THIS NOTE WITH RETROACTIVE
EFFECT TO JANUARY 1, 1974.

I AVAIL MYSELF TO THIS OPPORTUNITY TO RENEW TO YOUR EXCELLENCY
THE ASSURANCES OF MY HIGHEST CONSIDERATION."

3. MOFA OFFICIALS BELIEVE THE SUBSTANCE OF THEIR PROPOSED
NOTES AND THOSE IN REFTTEL (A) ARE ESSENTIALLY THE SAME.
THEY NOTE THAT THEIR PROPOSED NOTES ARE SIMILAR IN WORDING
TO AGREEMENTS ROKG HAS CONCLUDED WITH OTHER COUNTRIES.

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4. EMBOFFS NOTED THAT PARAGRAPH ON "RECIPROCAL GRANTING OF
RIGHT OF PRIORITY" WAS OMITTED IN ROKG VERSION. MOFA
OFFICIALS BELIEVE THAT THE PHRASE "MUTUAL GRANTING AND
PROTECTION OF RIGHT OF PRIORITY" IN THE PREAMBLE HAS THE SAME
MEANING, MAKING REDUNDANT THE SUBSEQUENT REFERENCE TO
RECIPROCITY.

5. POST DOES NOT KNOW IF INCLUSION OF PARAGRAPH ON "UTILITY
MODELS" IN ROKG VERSION CHANGES TEXTS SUBSTANTIALLY OR NOT.
(DOES USG HAVE PATENT AGREEMENTS WITH OTHER COUNTRIES WHICH
PROVIDE FOR UTILITY MODEL PATENTS?)

6. MOFA OFFICIALS EXPRESSED INTEREST IN CONCLUDING AGREEMENT
ASAP. PLEASE ADVISE.
SNEIDER

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NNN

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